

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

ORIGINAL
FILE

RECEIVED

NOV 30 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Part 90 of the)
Commission's Rules Governing)
Extended Implementation Periods)

PR Docket No. 92-210

To: The Commission

COMMENTS OF APCO

Associated Public-Safety Communications Officers, Inc.
("APCO") hereby submits the following comments in response
to the Commission's Notice of Proposed Rulemaking in the
above-captioned proceeding, FCC 92-429, released October 13,
1992.

APCO is the nation's oldest and largest public safety
communications organization representing the interests of
all elements of the public safety land mobile radio
community. APCO serves as the FCC's certified frequency
coordinator for all Part 90 Police, Local Government and 420
MHz and 800 MHz Public Safety channels. APCO has over
10,000 members involved in the management and operation of
radio communications systems for police, fire, local
government, emergency medical, forestry conservation,
highway maintenance, and other public safety services.

Section 90.629 of the Commission's rules provides for
an extended implementation ("slow growth") period of three
years for certain 800 MHz communications systems. 47 C.F.R.
§90.629(a). The Commission now proposes to extend the slow

No. of Copies rec'd 0 + 9
List A B C D E

growth period to five years. APCO does not believe that this rule change is necessary. Moreover, extending the slow growth period to five years for all licensees in the 800 MHz band would exacerbate a growing problem of non-public safety entities tying up vital Public Safety Pool channels for extended periods under the guise of interservice sharing. Therefore, APCO urges that the slow growth rules must not apply to non-public safety entities applying for channels in the Public Safety Pool.

Historically, APCO has supported the need for slow growth schedules for local government agencies. These rules are necessary, especially for larger systems, because of laws and financial restraints that require multi-year implementation schedules. The rules have worked well, and have allowed vital public safety communications systems to be built in an orderly fashion. In a few instances, the three year period has been insufficient for a local government to complete that task. However, the Commission has generally granted extensions on a case-by-case basis if warranted.

Therefore, APCO does not see a need at this time for extending the slow growth period. To the contrary, as discussed below, extending the slow growth period for non-public safety entities licensed for interservice sharing of Public Safety Pool channels will have a serious negative impact on the ability of public safety agencies to meet anticipated future radio frequency needs.

Commercial entities have recently been applying in unusually large numbers for 800 MHz channels in the speculative hope of building wide-area trunked SMR systems. As a result, the 800 MHz General Category Pool, which is now available for trunked operation, is rapidly filling up around the country. While some of these General Category systems are being fully loaded, others are being held in a de facto reserve pursuant to the Commission's slow growth rules and licensees' speculation of the future economic value of the channels. Extending the slow growth period from three to five years will allow these channels to be held in reserve that much longer, causing further congestion in the 800 MHz band.

APCO is not particularly concerned with the General Category itself. Most public safety agencies avoid the General Category because they cannot use channels or systems shared with non-public safety entities for critical public safety communication operations. They also lack the ability to fund, construct and fully load large systems as rapidly as commercial entities. However, APCO is concerned that congestion in the General Category (and other 800 MHz categories) caused, in part, by longer slow growth periods will lead more commercial entities to seek channels in the Public Safety Pool pursuant to interservice sharing.

Current 800 MHz congestion has already caused many commercial entities to apply for 806-821/851-866 MHz Public Safety Pool channels, pursuant to Section 90.621(g). Such

"interservice sharing" is allowed if no public safety system is currently authorized on the channel, and no frequencies are available in the applicant's own category (including the General Category). 47 C.F.R. §90.621(g)(1). Unfortunately, it is usually impossible to verify whether applicants for interservice sharing have legitimate needs for additional frequencies and whether their "own" channels are in fact fully loaded. Non-public safety entities in the Public Safety Pool are also eligible, under current rules, for slow growth authorization if they meet one of the criteria set forth in Section 90.629(a)(1-4). Thus, a non-public safety entity can tie up a critical public safety channel for up to three years.

APCO has always opposed this commercial intrusion into Public Safety frequencies, and urges that it be eliminated. In any event, the current 800 MHz "land rush," when combined with the proposed extension of the slow growth period from three to five years, will only exacerbate the problem. As the Commission has long recognized, local governments are under unique financial and legal constraints in planning, funding, and constructing communications systems. Many public safety agencies may have needs and plans for frequencies in the 800 MHz Public Safety Pool, but are unable to apply for the frequencies at this time because of funding constraints. APCO is concerned that when those agencies are ready to apply for channels, none will be

available in many circumstances.^{1/} Channels that might otherwise have been available will have been licensed to commercial entities who may, or may not, have immediate plans to construct.

Therefore, to the extent that interservice sharing of Public Safety Pool channels continues to be permitted, APCO urges that non-public safety entities licensed in the Public Safety Pool must not be eligible for slow growth authorization. They must be required, instead, to fully construct their systems within the standard time frame, or forfeit their licenses so that the channels can be reassigned. Otherwise, there will be a very real danger that critical police, fire, and other public safety agencies will be caught short in the near future, and left without adequate radio spectrum.

Finally, APCO opposes elimination of the annual reporting process for slow growth channels. Those entities holding slow growth authorization (whether commercial or public safety) must be held to their implementation schedules and required to provide bona fide reasons for any delays. This is the only method for the Commission and other licensees to monitor whether a licensee has legitimate need for extended implementation, or is merely warehousing a valuable radio frequency.

^{1/} The 821-824/866-869 MHz National Public Safety Plan channels are insufficient to accommodate all agencies who need frequencies, and therefore are unlikely to be a substitute for the Public Safety Pool channels.

CONCLUSION

Therefore, for the reasons discussed above, APCO opposes extension of the slow growth period from three to five years, especially for non-public safety entities in the 800 MHz Public Safety Pool.

Respectfully submitted,

ASSOCIATED PUBLIC-SAFETY
COMMUNICATIONS OFFICERS, INC.

By: 
Ronnie Rand
Executive Director

Of Counsel:

John D. Lane
Robert M. Gurss
WILKES, ARTIS, HEDRICK & LANE,
Chartered
1666 K Street, N.W., #1100
Washington, D.C. 20006-2866
(202) 457-7800

November 30, 1992